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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff

11 v.

12 BRADLEY WOOLARD,

13 Defendant.

CASE NO. CR18-217RSM

ORDER DENYING SECOND MOTION
FOR REVIEW OF DETENTION ORDER

14 This matter comes before the Court on the second Motion for Review of Detention Order
15 filed by Defendant Bradley Woolard. Dkt. #676. The Court finds oral argument unnecessary.
16 Mr. Woolard moves for reconsideration of Magistrate Judge Theiler's October 16, 2018, Order
17 that he be detained pending trial, Dkt #33. The Government opposes. Dkt. #679.

18 The Court has previously denied Mr. Woolard's request for review of this detention order,
19 addressing his current argument that the length of his detention violated due process. Dkt. #384.
20 The Court denied his Motion for Reconsideration. Dkt. #606. Trial is now set to begin in less
21 than two months.
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23 Mr. Woolard renews his Motion for two reasons: the continued passage of time ("thirty-
24 one months in custody is a violation of his right to Due Process"), and because of certain
25 statements made in the recent opinion issued in *United States v. Torres*, No. 21-50006 (9th Cir.
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1 4/23/21). Dkt. #676 at 1–2.¹ The Ninth Circuit in that case upheld the detention in a case similar
2 to this one, cited a case for the proposition that there is “no bright-line limit on the length of
3 detention that applies in all circumstances,” pointed out that the twenty-one month detention was
4 “deeply troubling,” and stated that if the defendant was not tried by his current trial date “the
5 district court and the prosecution must consider whether further prolonging detention crosses the
6 line from regulatory to punitive detention.”

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8 The Government cites to *Torres* as well and argues that “following conviction at trial,
9 Woolard will be facing a 15-year mandatory minimum term of imprisonment, and, potentially,
10 an advisory Guidelines range of life in custody,” and that “Woolard’s detention as of now (and
11 the time of trial) is nowhere close to his probable sentence,” thus it “does not create the due
12 process concerns expressed in... *Torres*.” Dkt. #679 at 2.

13 An appeal of a magistrate’s detention order is governed by 18 U.S.C. § 3145(b), which
14 provides that “If a person is ordered detained by a magistrate judge... the person may file, with
15 the court having original jurisdiction over the offense, a motion for revocation or amendment of
16 the order.” The District Court Judge with original jurisdiction then reviews de novo the
17 Magistrate Judge’s detention order. *See United States v. Koenig*, 912 F.2d 1990, 1192 (9th Cir.
18 1990). In ruling on a motion for pretrial detention, the Court must answer the same questions as
19 the Magistrate Judge; whether any condition or combination of conditions will reasonably assure
20 the appearance of the defendant as required, and the safety of any other person and the
21 community. 18 U.S.C. § 3142(f). The United States typically bears the burden of showing that
22 defendant poses a danger to the community by clear and convincing evidence, and it bears the
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25 ¹ The Court notes that Mr. Woolard has not cited to a published version of the recent Ninth Circuit
26 opinion to which he bases his entire Motion, nor has he attached a copy to his Motion, nor does
27 he provide an accurate case number. The Government’s brief supplies the correct case number,
21-50006. *See* Dkt. #679 at 1.

1 burden of showing that a defendant poses a flight risk by a preponderance of the evidence. *United*
2 *States v. Gebro*, 948 F.2d 1118, 1120 (9th Cir. 1991). However, the Bail Reform Act expressly
3 provides that:

4 [s]ubject to rebuttal by the person, it shall be presumed that no
5 condition or combination of conditions will reasonably assure the
6 appearance of the person as required and the safety of the
7 community if the judicial officer finds that there is probable cause
8 to believe that the person committed an offense for which a
9 maximum term of imprisonment of ten years or more is prescribed
in the Controlled Substances Act (21 U.S.C. 801 et seq.) . . . or an
offense under section 924(c) . . . of title 18 of the United States Code
. . .

10 18 U.S.C. § 3142(e).

11 The parties have previously recounted the charges facing Defendant Woolard and the
12 procedural history of this case, Dkt. #375 at 4; Dkt. #372 at 2–4, and the Court finds it
13 unnecessary to restate this background information as it is well known to the parties. Defendant
14 is alleged to have been involved in the distribution of over 400 grams of fentanyl pills, as well as
15 the distribution of furanyl fentanyl pills. Dkt. #279 at 1-2. These carry a mandatory minimum
16 penalty of ten years in prison. Defendant is also facing a five-year mandatory minimum
17 consecutive sentence. In total, Defendant is charged with 27 counts, and twelve of these offenses
18 carry mandatory minimum penalties of either five or ten years.

20 Defendant has previously argued that the length and nature of his pretrial detention
21 violates due process. Dkt. #372 at 13–15. The Ninth Circuit evaluates such challenges based on
22 “the length of confinement in conjunction with the extent to which the prosecution bears
23 responsibility for the delay that has ensued.” *United States v. Gelfuso*, 838 F.2d 358, 359 (9th
24 Cir. 1988). District courts within the Ninth Circuit have focused on three factors: “(1) the non-
25 speculative length of expected confinement; (2) the extent to which the government (the
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1 prosecution and/or the court system) bears responsibility for pretrial delay; and (3) the strength
2 of the evidence indicating [as here] a risk of flight [or] threat to the trial process” *United*
3 *States v. Flores*, 2018 WL 3530837, at *2 (C.D. Cal. July 20, 2018); *United States v. Mukhtar*,
4 2012 WL 12953440, at *9 (D. Nev. July 17, 2012); *United States v. Ailemen*, 165 F.R.D. 571,
5 581 (N.D. Cal. 1996). Courts have also noted that “the closer the length of pretrial detention gets
6 to the probable sentence, the more likely the courts are to find a due process violation.” *Ailemen*,
7 165 F.R.D. at 581. The Government has previously noted that Mr. Woolard’s length of detention
8 is “nowhere close” to the sentence he is facing in this case, a mandatory-minimum fifteen-year
9 term of imprisonment. Dkt. #375 at 12. The Government has previously argued that the delay
10 that has ensued in this case “does not arise from the fault of the government, but rather, from the
11 complexity of the case, the number of co-conspirators, and the rise of a global pandemic in 2020.”
12 *Id.* The Court has previously agreed with these points and found that there is strong evidence
13 indicating a risk of flight as set forth by Judge Theiler. *See, e.g.*, Dkt. #33 at 2 (“[t]he AUSA
14 proffers evidence in support of the allegation that over thirty firearms, hundreds of thousands of
15 rounds of ammunition, homemade silencers, approximately one million dollars, and more than
16 10,000 fentanyl pills were found during a search of defendant’s residence, hidden in the attic,
17 secret rooms, the walls, ceilings and appliances.”).

20 The Court has reviewed the briefing from the parties and its prior analysis of this issue.
21 The Court continues to find that the delay in this case has not been caused by the Government
22 but rather the case’s complexity and the COVID-19 pandemic. The Court has taken into
23 consideration the continued passage of time and compared this case to *Torres*. The Defendant
24 in that case was awaiting trial on drug charges carrying a five-year mandatory minimum sentence.
25 Here, Mr. Woolard is facing twice or three-times that sentence. Even if the facts were the same,
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1 the defendant in *Torres* was not released. While the amount of pre-trial detention in this case is
2 troubling, it does not legally justify reconsidering the detention order given the above analysis,
3 the bases for detention in the first place, and the current proximity to trial.

4 Having reviewed the briefing, along with the remainder of the record, the Court hereby
5 finds and ORDERS that the Second Motion for Review of Detention Order filed by Defendant
6 Bradley Woolard, Dkt. #676, is DENIED.

7 DATED this 28th day of May, 2021.
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12 RICARDO S. MARTINEZ
13 CHIEF UNITED STATES DISTRICT JUDGE
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